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COMMITTEE ON THE RIGHTS OF THE CHILD

Thirtieth session

SUMMARY RECORD OF THE 789th MEETING

Held at the Palais Wilson, Geneva,
on Tuesday, 28 May 2002 at 3 p.m.

Chairperson: Mr. DOEK

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Second periodic report of Tunisia (continued) (CRC/C/83/Add.1; CRC/C/Q/TUN/2; HRI/CORE/1/Add.46; written replies of the Government of Tunisia to the questions in the list of issues (document without a symbol distributed in the meeting room in English and French))

1. At the invitation of the Chairperson, the members of the delegation of Tunisia took places at the Committee table.

2. Mr. AL-SHEDDI, referring to the recently-established body of Child Protection Delegates, said he understood that Delegates would be based in each municipality and answerable to the Ministry of Youth, Children and Sports. He was not convinced, however, that such persons, having a duty routine, would be as effective as voluntary workers, and asked whether the latter would still be actively involved in child protection. He also wished to know to what extent non-governmental organizations (NGOs), of which the country was said to contain a large number, could act independently and effectively, and whether they were likely to have greater freedom in responding to children's needs. He recalled reading of another recently established child protection body, about which he would like to have details. A large proportion of complaints reportedly lodged with child protection bodies seemed to be against a parent, suggesting an important need for child welfare education. He would like to know what steps the Ministry was taking in that regard. He understood that it was customary for a child to take its father's nationality; in cases of divorce or separation, however, he wondered whether children of a non-Tunisian father placed in the custody of their Tunisian mother could assume her nationality.

3. The report (CRC/C/83/Add.1) drew attention to the promotion of computers in schools; he asked what steps were taken to prevent children from viewing inappropriate material on the Internet. The report also stated that 85 per cent of children under 6 years of age could not attend school. Doubtless the private sector was active in education for the under-6 age group, but it was unlikely to be widely accessible. He hoped, therefore, that steps would be taken to increase public schooling for that age group.

4. Ms. AL-THANI said that the reported high level of achievement in health activities, including a sharp drop in mortality figures, was welcome, but she feared that the overall figures might fail to reflect large local variations in health care services. She wished to know whether such variations existed and, if so, what remedial steps were being taken. She remained concerned about the lack of public primary health care in some regions where traditional lifestyles, including childbirth in the home, still prevailed. It seemed that only 44 per cent of the population had access to such care; she wondered why.

5. As in most Arab countries, the incidence of AIDS was not high. She would like to know, nevertheless, whether any preventive and awareness-raising measures were being taken, particularly with a view to avoiding mother-to-child transmission, or whether, as in many Arab nations, such matters were deemed a taboo subject.

6. According to figures in the report, only a very low proportion of disabled children attended public schools, pointing to a need for better integration of such children into the education system. She would like to know what steps, possibly including vocational training, were being taken in that regard, and whether there was any research into the incidence and causes of disabilities in children.

7. Mr. CITARELLA asked whether the new Constitution contained any amendments to the articles relating to children; some general information on the new text would be useful to the Committee. With regard to the freedom of children to express their views, he was concerned that there seemed to be certain constraints on children up to 18 years of age, and perhaps even on adults.

8. In paragraph 17 of the Committee's concluding observations (CRC/C/15/Add.39) to Tunisia's initial report, the Committee had made certain recommendations relating to awareness-raising among family members in regard to corporal punishment of children in the home, but no reference to the Committee's recommendations appeared in the current report.

9. The Child Protection Code did not cover all aspects of a child's life, dealing only with protection of the child and some general concepts relating to family life and the child's relationship with society. With regard to criminal matters, the report mentioned the establishment of a Youth Court consisting of a president, two advisory judges and experts on children; he wondered whether decisions were taken by a majority of its members.

10. Lastly, the written replies contained two tables, 24 and 25, which seemed to be the same; he asked for an explanation.

11. Ms. SARDENBERG said that the work of NGOs could provide a most important input to government efforts towards increased democratization and social progress, and she hoped that NGOs could benefit from a systematic relationship with the Tunisian authorities. Private sector involvement was a new trend, on which further information would be welcome. Since the Tunisian Government's efforts touched so many areas, it might be helpful to develop a global strategy to deal not only with child welfare but with children's rights as a whole. The establishment of child protection representatives was welcome, opening the way for consideration of more sensitive issues.

12. She would like to know what steps were taken to tackle disparities between urban and rural areas in access to health and education services, and how municipalities addressed implementation of the Convention. The Government was making good progress in advancing women's rights, but she would be glad to have more information, particularly on the possibility of amending the inheritance laws in favour of women. She also asked for more details on the situation of children born out of wedlock, including the criteria applied in custody cases. There seemed to be no legislation dealing with corporal punishment; the Committee was concerned about the infliction of such punishment not only in the home but in schools and penal institutions. She asked whether there were any plans to promote awareness of the problem and foster a culture of non-violence. The progress in girls' education was impressive, but the acid test would probably come in a few years' time when women graduates entered the employment

market. In general, school dropout rates, even at primary level, remained high; she wondered what remedial action was being taken. She also asked for further information about measures to promote freedom of expression, as well as on ways to ensure implementation of article 2 of the Convention, since non-discrimination was mentioned nowhere in the report.

13. Ms. OUEDRAOGO said that, although the report showed that the poverty rate in Tunisia had dropped sharply, there was no mention of an actual programme to strengthen family empowerment; she asked whether such a programme existed. Although freedom of conscience, expression and religion was enshrined in the law, she was aware of instances of violations, such as the exclusion of girls from school because of wearing veils, and asked how the authorities dealt with them.

14. She would like to know what action was taken regarding situations of children born out of wedlock, and asked about surveillance and punishment measures to deal with sexual abuse within the family. She would also appreciate details about how the system of Child Protection Delegates was working, what degree of relationship existed between Delegates and families and how monitoring was followed up.

15. Ms. KARP asked whether there were any examples of case law in which the child's interests were particularly relevant and whether those interests had prevailed over others in any rulings. She also asked whether, and to what extent, the child's views were heard in the court system - for example, what was obligatory and what was left to a judge's discretion. In general, she would like to know to what extent children could participate in evaluation relating to schooling and other spheres - perhaps even in the preparation of periodic reports.

16. Identification of violence-related issues still seemed to present major problems. She wondered whether a study of domestic violence and sexual abuse could be carried out by the Information, Training, Documentation and Study Observatory for the Protection of the Rights of the Child.

17. She wondered whether any analysis of the budget and manpower resources of the Child Protection Delegates had been carried out in order to ensure that they would be able to cope with what was proving to be an enormous demand.

18. She would like to know whether the recent amendment to the Criminal Code introduced protection for boys against rape or sexual abuse, which was not covered in the current Code. She understood that perpetrators of sexual abuse could not be prosecuted if they married the victim and she would like to know of any cases where a perpetrator had not in fact been brought to trial for that reason. She wondered whether such an approach respected children's or victims' rights or was in keeping with modern ideas of how to deal with sexual abuse.

19. According to information received, allegations of police brutality included sexual abuse and even torture against persons in detention. Had such allegations been investigated? Was there a system whereby children in detention could freely bring a complaint and what measures existed to prevent such incidents recurring?

20. She wondered whether Child Protection Delegates had an obligation to report cases to the police in order to ensure that perpetrators were dealt with properly. She also asked whether the system of release under supervision was a form of probation.

21. She welcomed the introduction of a mediation procedure into the juvenile justice system. She wondered whether consideration had been given to the family group conference procedure, which involved a perpetrator's family and close friends in the proceedings and had been found to improve relationships within the family.

22. Lastly, she asked whether any studies had been made of links between tourism and commercial sexual exploitation. Had Tunisia developed any measures to prevent exploitation of children in line with the Declaration and Agenda for Action adopted at the World Congress against Commercial Sexual Exploitation of Children, held in Stockholm in 1996?

23. Ms. CHUTIKUL requested information on the outcome of a survey of children aged 9 to 14, which she understood the Ministry for Youth, Children and Sports had carried out in cooperation with UNICEF, to find out what they knew about the Convention.

24. Despite Tunisia's level of development, there were a number of problems in education: illiteracy rates were still very high, for example, and pre-school coverage very low. She wondered what was being done to speed up the spread of pre-school education. She would like to know why the training given to girls in rural areas by the National Union of Tunisian Women was not recognized by the Government, when it could constitute a useful qualification.

25. Lastly, she asked what the Ministry for Youth, Children and Sports would consider to be its three main priorities for children over the next five years.

26. Ms. KHATTAB said Tunisia should be congratulated for the enormous efforts it had made. There was still room for improvement, nevertheless, particularly in the situation of children in rural areas: young girls could be encouraged to participate in out-of-school community development projects; health care in rural areas needed improvement; and, in general, the enormous gap between urban and rural areas of Tunisia must be narrowed. It was also important for children's well-being and survival to improve the quality of teaching in order to minimize truancy.

27. Ms. TIGERSTEDT-TÄHTELÄ said the incorporation of human rights into the Constitution was very welcome, yet she understood that attitudes towards human rights NGOs were rather negative - demonstrations by human rights defenders had been banned, for example. She wondered why that could be, given the social and economic progress Tunisia was making. She also asked whether there were any rights-based NGOs among the 4,000 NGOs working on behalf of children.

28. She asked what proportion of services was provided by the private sector, including NGOs, and whether the Government made contracts with such providers. Was there a trend towards greater private-sector provision of services?

29. The CHAIRPERSON said that he was puzzled by the fact that, according to the documents - and indeed according to the Executive Director of UNICEF, Carol Bellamy - the situation of children in Tunisia was very good, and yet human rights violations in general appeared to be widespread. According to reports, children of human rights defenders suffered exclusion from education and health care, for example. The Government also took an extremely tough line on drug abuse, apparently even resorting to torture. He felt that was something of a contradiction, given that Tunisian society seemed eager to promote children's rights. He would welcome the delegation's comments.

The meeting was suspended at 4.10 p.m. and resumed at 4.35 p.m.

30. Mr. KHEMAKHEM (Tunisia) said Tunisia recognized its commitments under international conventions and would withdraw its reservations whenever practicable and possible.

31. The minimum age of marriage for girls was 17 and for boys 20. That might appear to be discriminatory, but was more a question of culture. Tunisian legislation was proceeding by stages. The age of marriage for girls had been raised from 15 when objective conditions had allowed and the Government was prepared to continue in that direction when conditions were right. In fact a recent study had shown that the average age of marriage for women students, for example, was 28, a finding that might indicate that conditions were changing and that amendments to the law might be required.

32. Mr. CITARELLA said that the issue was not simply the minimum age of marriage for girls but also the fact that girls over 18 were still required to obtain parental consent before marrying.

33. Mr. KHEMAKHEM (Tunisia) said that the Personal Status Code stipulated that the minimum age for marriage was 17 years for girls and 20 years for boys; however, girls under the age of 17 were permitted to enter into a marriage contract if their parents agreed. Girls over the age of 17 did not need their parents' consent in order to get married.

34. In reply to a question about the complaints mechanism available to children, he said that the Child Protection Code of 1995 had created a corps of Child Protection Delegates mandated to identify children in need of special protection and to take immediate remedial action in concert with the family and relevant authorities. They had special investigative powers and were available to receive any type of complaints from or involving children. The Government had taken steps to raise awareness of the function of Child Protection Delegates. In schools, pupils elected representatives to file complaints on their behalf and to mediate between the parties involved. Teachers were also available to receive complaints from pupils. In addition, child rights associations had been created to act on behalf of schoolchildren who wished to lodge a complaint.

35. On the issue of legislative measures introduced to promote and protect the rights of the child, he said that the Child Protection Code had been adopted specifically for children in need of special protection and children in conflict with the law. The Code outlined the sanctions to be

imposed on perpetrators of crimes involving children and highlighted that all citizens, even those bound by professional secrecy, had a moral duty to notify a Child Protection Delegate of any incident involving a child in need of special protection. The Government had adopted measures to raise awareness of that duty among the general public.

36. Ms. KARP said the State party should explain whether or not the Child Protection Delegates were independent from Government.

37. Mr. ZOUARI (Tunisia) said that although the Delegates were appointed by the Ministry of Youth, Children and Sports, they were not civil servants. The Delegates had special investigative powers and had the prerogative to summon the child's parents; they worked in cooperation with municipal and regional authorities, judges, law-enforcement personnel, other authorities and civil society. A Delegate-General was responsible for coordinating their work. The Child Protection Delegates had already received some 10,000 complaints and the mechanism was widely considered to be a success; however, it would be useful to review the system and determine how it could be further improved.

38. Mr. KHEMAKHEM (Tunisia) said that polygamy and all forms of informal marriage had been prohibited by law since independence in 1956; the vast majority of the population had accepted the decision to abolish the practice. Since then, there had been a significant drop in the number of informal marriages. Marriage contracts now had to be drawn up by a civil registrar in the presence of two witnesses.

39. A law had been introduced to combat drug abuse and trafficking. It had been amended in 1995 following the adoption of the Child Protection Code to provide greater protection to children who consumed drugs or committed drug-related crimes. It stipulated that the courts should send such children to rehabilitation clinics or to participate in detoxification programmes.

40. In reply to a question about the status of the Tunisian Association for the Rights of the Child, he said that the association was an independent NGO that had been created in 1998; it received support from a Swiss NGO and from Cameroon. Its role was to monitor the implementation of the Convention and the Child Protection Code. A document had recently been published outlining the issues raised at a recent meeting held by the association in Cameroon, which had been attended by the Chairperson of the Committee.

41. In January 2002, a law had been adopted under which a child born of a marriage between a Tunisian woman and a foreign man could be granted Tunisian nationality even if the parents separated.

42. The Government was taking steps to promote the access of all children to the media and new information technologies. The Internet contained vast resources that were beneficial to children. However, it was difficult to promote freedom of expression and at the same time prevent children from gaining access to inappropriate material. While it was important to protect children from sexually explicit material or material that would encourage violent behaviour, the Government did approve of material that took a structured approach to sex education, and it endeavoured to ensure that any material that was disseminated promoted a culture of tolerance.

43. Mr. AL-SHEDDI said that the reporting State should provide further details of the technical or administrative measures that were being taken to protect children from gaining access to harmful material. The Government had a responsibility to raise parents' awareness of the need to restrict the children's access to the Internet.

44. Mr. ZOUARI (Tunisia) said that a committee of experts had been established to consider ways of protecting children from harmful material on the Internet. The Government was involved in international debate on how to make proper use of new information technologies.

45. Mr. KHEMAKHEM (Tunisia) said that while the Ministry of Education had banned the use of all forms of corporal punishment in schools, chapter 313 of the Criminal Code permitted certain tolerable forms of corporal punishment against children, if inflicted by persons authorized to do so. A criminal procedure could be initiated if a medical certificate indicated that the child had been subjected to physical harm.

46. Ms. KARP said that the only way of protecting children from physical harm was to ban corporal punishment entirely. Parents often caused accidental harm to their children while administering corporal punishment.

47. Mr. KHEMAKHEM (Tunisia) said that the Criminal Code made it very clear that anyone inflicting physical harm on a child by inflicting corporal punishment was liable to receive a prison sentence of up to 20 years.

48. Mr. L-SHEDDI said that all forms of corporal punishment, however light, caused some form of physical or psychological damage to a child.

49. Ms. SARDENBERG said it was unclear how the Government defined "tolerable" forms of corporal punishment. It was very difficult to set limits on what was acceptable. In addition, the psychological impact often went undetected. She would be interested to know whether the law permitted corporal punishment to be inflicted on adults.

50. Ms. KARP said that the Governments of other countries had addressed the issue of corporal punishment by making a clear statement that it was unacceptable and by raising awareness of alternative forms of punishment. Then, as public attitudes changed over time, they were able to introduce a law making it a criminal offence.

51. Mr. ZOUARI (Tunisia) said that the Government did not encourage corporal punishment; schoolchildren were participating in measures to raise awareness of the negative effects of such forms of punishment.

52. Mr. KHEMAKHEM (Tunisia) said that the Child Protection Code provided that juvenile delinquents had to be heard in a juvenile court in the presence of a juvenile judge and two magistrate's assistants who were fully familiar with the available evidence. The judge had to substantiate his or her decision if it ran counter to the advice given by those assistants.

53. In reply to a question about tables 24 and 25 of the written replies, he said that table 24 showed the number of offences by minors that had been reported to the police, while table 25 showed the number of minors that had been involved in criminal proceedings for committing an offence.

54. On the issue of inheritance, he said that inheritance law in Tunisia was based on Islamic law and cultural beliefs. Men traditionally inherited twice the share of women, if they were equally related. However, the Government had made serious efforts to advance the rights of women by allowing people greater choice in matters of inheritance. A law had been adopted in 1996 to strengthen women's rights to property ownership. The Government encouraged discussion prior to marriage of the possibility of joint ownership of property acquired during the marriage and encouraged couples to include provisions concerning joint property in their marriage contracts. However, it had to be recognized that deep-rooted attitudes on the issue could not be changed overnight.

55. Replying to a question on whether a rapist was forced to marry his victim, he said that there appeared to have been a misunderstanding. Article 227 of the Civil Code concerned rape involving violence and in that instance the aggressor was in no position to marry the victim. Article 224 bis stated that any person committing rape without violence would be sentenced to six years in prison if the victim was aged between 15 and 20 years. The concept of the rapist marrying his victim was a cultural legacy in Tunisia and many other Arab countries because in the past the practice had been encouraged to reconcile the families and avoid social scandal.

56. The concept of "protected freedom" described in the Child Protection Code represented an alternative to detention. Child offenders remained in the family but when outside the family home they were supervised by a voluntary worker who made regular progress reports and intervened to prevent any further crimes.

57. Concerning child support, under Tunisian law if a child was born six months before the marriage of its parents the father would not be responsible for maintenance. However, the courts usually ruled in favour of the mother and she had the right to appeal. If a mother won a case on appeal, maintenance would be granted even if the marriage contract had been annulled. The courts usually took account of children's opinions before making rulings, particularly with regard to divorce, reconciliation and the granting of custody rights.

58. With regard to the information provided by Committee members on violations against children, he said that as far as he was aware no child had been involved in any allegations of torture, brutality or misuse of power, sexual or other abuses, and his Ministry had not received any complaints concerning children. Protection mechanisms existed and would have been invoked in the event of cases involving child victims.

59. Ms. KARP asked whether there was a system in place enabling detained children to lodge complaints or to talk in private, given that they were often traumatized by their experiences. Returning to the question of marriage following rape she pointed out that frequently no violence was involved but the rapist had abused a relationship of trust or dependency. In such cases the victim was socially coerced into marrying the rapist, reflecting an attitude that did not protect the rights of the victim.

60. Mr. KHEMAKHEM (Tunisia) pointed out that the victim was not forced to marry, and was free to ensure that the rapist remained in prison by not marrying him.

61. Under the Tunisian legal system there were many possibilities available to prisoners who wished to make complaints to the courts. For example, an official representative of the High-Level Committee on Human Rights and Fundamental Freedoms could visit prisons unannounced and interview prisoners. There was also a judge empowered to visit prisons and hear complaints. In addition, juvenile judges could hear complaints made by children, as could the Child Protection Delegate.

62. Ms. KHATTAB asked why it was believed to be helpful for the victim of a rape to marry her aggressor. If raped, the victim was stigmatized for life and although she might have a choice, she would probably be forced by her parents to marry her aggressor to protect her from such stigma. It was therefore a question of changing the cultural tradition, both in Tunisia and other countries.

63. Mr. BOUKTAIEF (Tunisia), replying to a question on disabilities in children, said that the number of disabled children integrated into regular schools was still very low. A census was currently being conducted on disabled people with the aim of learning more about the causes of disability and associated health, education and family issues. His Government was very proud of the efforts made to care for disabled children in cooperation with NGOs, as a result of which almost 95 per cent of cases received assistance. Of the 20,000 disabled children aged 0-19 years in Tunisia, 6,500 attended regular schools and 12,000 attended special schools. The Government was currently putting the final touches to a national strategy to help integrate disabled children into regular schools, which represented a strategic change in approach to their protection. The strategy also covered professional training programmes and employment opportunities.

64. With regard to the reduction of poverty, the Government had implemented programmes to help the poorest families become more integrated within society. The Tunisian Solidarity Bank was funding small integration projects for young people and families with low incomes to promote economic improvement.

65. In reply to a question on the validation of diplomas awarded to young women in rural areas at centres run by the National Union of Tunisian Women, he explained that the holders of the diplomas had the right to participate in programmes run by the Tunisian Solidarity Bank and that there was no problem with the acknowledgement of their diplomas.

66. Mr. ZOUARI (Tunisia) said that the system created for the protection of the child was an integrated, harmonized system which had its roots in Tunisia's Arab identity. However, the country was also open to modern civilization and new technology. Although it did not claim to have reached the levels of the developed countries, Tunisia had very high standards of child protection. The State was aware of its collective responsibility to provide access to free health care and education and in recent years many of the major problems within society had been tackled with excellent results: population growth had been reduced to 1.1 per cent and the birth rate was approximately 2 per cent. There were still shortcomings in education, such as the fact that pre-school education was available only to 17 per cent of children; however, there were plans to increase the figure to 35 per cent over the next five years. There were also shortcomings

in health care, including the lack of medical specialists in certain regions. An action plan had been drafted to increase the number of places available for medical training at universities and to prioritize the improvement of medical facilities in 150 regional areas. Tunisia's five main priorities in the sphere of children's rights were to improve the quality of education, to reduce high drop out rates in education, to ensure universal access to pre-school education and to establish day-care facilities throughout the country by 2006.

67. Awareness-raising campaigns were now widespread, the electricity grid had been extended, 80 per cent of the country had clean drinking water, programmes had been set up for providing microcredit and the availability of subsidies and family benefits were also being improved. The Tunisian Solidarity Bank had been providing microcredit to women working in traditional industries to help empower them and the results had been very satisfactory to date. Respect for human rights was enshrined in the amended first chapter of the Constitution.

68. He encouraged the Committee to bring any further issues to the attention of his Government and expressed appreciation for its comments. He thanked the members for their recommendations, which would be given due consideration, and invited them to visit Tunisia.

69. Mr. AL-SHEDDI thanked the delegation for its informative report, its replies to the Committee's questions and the publications it had provided, and said the Committee looked forward to receiving Tunisia's next report.

The meeting rose at 6.05 p.m.